

United States ¹⁶
Circuit Court of Appeals
For the Ninth Circuit.

In the Matter of the CRAIG LUMBER COM-
PANY, a Corporation,

Bankrupt.

E. L. COBB, Trustee of the Estate of CRAIG LUM-
BER COMPANY, a Corporation, Bankrupt,
Petitioner,

vs.

MacDONALD-WIEST LOGGING COMPANY, a
Corporation,

Respondent.

Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress, Approved
July 1, 1898, to Revise, in Matter of Law, a Certain Order
of the United States District Court for the
Territory of Alaska, Division No. 1.

FILED

APR 15 1920

F. D. MONCKTON,
CLERK.

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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*In the United States Circuit Court of Appeals for the
Ninth Circuit.*

IN BANKRUPTCY—No. 31.

In the Matter of the CRAIG LUMBER COM-
PANY, a Corporation,

Bankrupt.

Petition for Revision of Order of the District Court.

To the Honorable Judges of the United States Cir-
cuit Court of Appeals for the Ninth Circuit:

The petition of E. L. Cobb respectfully shows as
follows:

I.

In the District Court for Alaska, Division Number
One, at Juneau, a proceeding was begun on the 25th
day of February, 1919, to have the Craig Lumber
Co., a corporation adjudged a bankrupt. There-
after on the 19th day of March, 1919, the aforesaid
Craig Lumber Company was duly adjudged a bank-
rupt, and thereafter, in the same proceedings, your
petitioner became the duly elected and qualified trustee
in bankruptcy of its estate under the laws of the
United States.

II.

Thereafter in due course, the McDonald-Weist
Logging Company, a corporation duly organized un-
der the laws of the State of Washington, filed a claim
against said estate for the sum of \$27,871.50 or there-
abouts.

III.

That your petitioner, as trustee aforesaid, objected
to the allowance of said claim, or any part thereof on

the ground that the same was not a provable claim in bankruptcy, for the reason that the said claim was for sums alleged to be due under a contract by and between [1*] the claimant and the bankrupt, made and performed in Alaska, and growing out of business in Alaska, and that at the time of the making of said contract, and at all times thereafter the said claimant had not complied with the laws of Alaska governing foreign corporations doing business in Alaska, and was not qualified to do business in Alaska, and that the contract which was the basis of the claim was void.

IV.

The matter came on thereafter to be heard before the Honorable H. B. Le Fevre, Referee in Bankruptcy, and upon such hearing the Referee found the following facts:

1. The McDonald-Weist Company is a corporation of the State of Washington.

2. The contract upon which the claim in controversy is based, and out of which it grows, was made in the Territory of Alaska on the 2d day of January, 1918, and was to be performed entirely within the Territory of Alaska.

3. On December 12th, 1917, the McDonald-Weist Company filed in the office of the Clerk of the District Court for the First Division only the following papers, to wit:

(a) A certified copy of its charter or Articles of Incorporation.

*Page-number appearing at foot of page of original certified Transcript of Record.

(b) Its written consent to be sued, and the appointment of L. J. McDonald as its agent.

(c) A document attached to document (b) filled out in the handwriting of L. J. McDonald, which was in form an acceptance of the appointment, but the same was never subscribed by the said L. J. McDonald.

4. The McDonald-Weist Company filed in the office of the Secretary of State for Alaska, only the following documents at the dates mentioned, to wit: (a) Charter filed January 28th, 1918. (b) Appointment of agent and acceptance of appointment filed January 28th, 1918. (c) Annual statement filed February 16th, 1918. (d) Annual statement filed February 27th, 1919. [2]

5. The Annual Statement filed February 16th, 1918, was not verified by the President and Secretary of the McDonald-Weist Company, nor attested by the directors, and the Annual Statement filed February 27th, 1919, was not attested by a majority of the directors.

Which said findings were acquiesced in as correct by the said McDonald-Weist Co.

V.

That the said Referee thereupon ruled and decided that the said claim of the McDonald-Weist Logging Company was not a provable claim in bankruptcy and made and entered an order and decree disallowing the same and expunging it from the list of claims.

VI.

Thereafter such proceeding were had in said matter that the ruling and decision of the Referee was

brought into the said District Court upon the said facts and the law arising thereon upon a petition of review, and was argued by counsel, and thereafter on the 3d day of February, 1920, the said District Court for Alaska made and entered an order reversing the decision of the Referee, and remanding the cause for further proceedings.

VII.

Your petitioner, considering himself aggrieved by this order of the District Court, respectfully applies to this Honorable Court for a revision and review thereof, to the end that the said claim of the said McDonald-Weist Logging Company may be held not a provable claim in bankruptcy and the decision of the Referee disallowing and expunging said claim may be affirmed, and the action of the District Court reversing said decision of the Referee may be corrected, and such orders may be made by this Court as are necessary to that end. For that purpose your petitioner annexes hereto a certified copy of so much of the record as will enable this Honorable Court to review and correct the action of the District Court with due care and justice to all concerned. [3]

E. L. COBB,
Trustee in Bankruptcy of Craig Lumber Co., Bank-
rupt, Petitioner.

J. H. COBB,
Counsel for Petitioner.

United States of America,
Territory of Alaska,—ss.

E. L. Cobb, being first duly sworn, on oath deposes and says: I am the petitioner above named. The

facts set forth in the above and foregoing petition are true to the best of my knowledge and belief.

E. L. COBB,

Subscribed and sworn to before me this the 24th day of February, 1920.

[Seal]

J. H. COBB.

Notary Public in and for Alaska.

My commission expires June 8, 1923.

The above and foregoing petition is allowed this the —— day of February, 1920.

_____,
Judge, [4]

CLERK'S CERTIFICATE.

United States of America,
District of Alaska,
Division No. 1,—ss.

I, the undersigned, Clerk of the District Court for the District of Alaska, Division No. One, do hereby certify that the hereto attached is a full, true and correct copy of the original "Claim of McDonald-Wiest Lumber Co."; "Objections by Trustee to Claim of McDonald-Weist Lumber Co."; "Order of Referee, Expunging Claim of McDonald-Weist Lumber Co."; "Notice of Appeal"; "Certificate by Referee"; "Minute Order Reversing Referee"; "Court Order Reversing Referee"; in Cause No. 31—In Bankruptcy, on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed the seal of said court at

Juneau, Alaska, this twentyfourth day of February,
1920.

[Seal]

J. W. BELL,

By _____,

Deputy. [5]

*In the District Court for the District of Alaska, Div.
No. One, at Juneau.*

Claim No. 31.

IN BANKRUPTCY—No. —.

In the Matter of the CRAIG LUMBER COM-
PANY, a Corporation,

Bankrupt.

Claim of MacDonald-Wiest Lumber Company.

United States of America,

Territory of Alaska,

Division No. One.—ss.

At Juneau, in said District of Alaska, Division No. One, on May 22d, 1919, came L. J. McDonald, of Ketchikan, Alaska, in said Division and District; and made oath and says: That the said Craig Lumber Company, a corporation, the corporation for whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of the said petition and still is justly and truly indebted to the said MacDonald-Wiest Lumber Company, a corporation, in the sum of \$27,871.50, with interest thereon, from December 20th, 1918, at 8% per annum amounting in all to \$28,328.90; that the consideration of said debt is as follows:

“For logs sold and delivered to the said Craig Lumber Company, a bankrupt, during the period from January 1st, 1918, to December 20th, 1918.”

And that no part of said debt has been paid and that there are no offsets nor counterclaims to the same; that said debt was due on December 20th, 1918, and is still due, and that no note has been received for such account nor any judgment rendered thereon, and that said McDonald-Wiest Lumber Company has not, nor has any person by its order or to its knowledge or belief for its use had or received any manner of security for said debt whatsoever, except that said company claims and holds a lien on logs and lumber as more particularly set out in the hereto attached copy of complaint, and that this deponent [6] is the treasurer of the said McDonald-Weist Lumber Company, and is duly authorized by said corporation to make this affidavit and proof for the said corporation and in its behalf.

L. J. MacDONALD.

Subscribed and sworn to before me this May 22d, 1919.

[Seal]

H. L. FAULKNER,
Notary Public for Alaska.

My commission expires Nov. 14, 1922. [7]

in the United States District Court for Alaska, Division Number One, at Juneau.

IN BANKRUPTCY—No. 31

In the Matter of the CRAIG LUMBER COMPANY, a Corporation,

Bankrupt.

Objections of Trustee to Claim and Lien of MacDonald-Wiest Lumber Co., a Corporation.

Now comes E. L. Cobb, Trustee of the Estate of the above-named Craig Lumber Company, bankrupt, and objects to the proof of claim filed by the MacDonald-Wiest Lumber Company, a corporation of the State of Washington and prays that the same may not be allowed on the following grounds, to wit:

1. Said claim is not a claim provable in bankruptcy, for the reason that the said MacDonald-Wiest Lumber Company is a foreign corporation; that it never complied with the laws of Alaska concerning foreign corporations doing business in Alaska and at no time, and is not now authorized to do business in Alaska; that the said claim is founded upon and grows out of a contract for cutting logs in Alaska, which is the business of said company, which said contract was, and is, illegal and void.

2. Said MacDonald-Weist Lumber Company falsely asserts and alleges the consideration and amount of its claim in this: Said claim alleges the consideration to be for "For logs sold and delivered to the said Craig Lumber Company, a bankrupt, dur-

ing the period from January 1st, 1918 to December 20th, 1918.”

That in truth and in fact the consideration for said claim was a contract made by and between the said bankrupt and said claimant in the year 1917, whereby the claimant undertook to cut, put in the water and boom logs belonging to the Craig Lumber Company and situated in Alaska at the rate of Ten (\$10.00) Dollars per M. B. M.

That said contract was illegal and void for the reasons [8] set out in the first paragraph hereof, but if the same had been legal, there was not, and is not due thereon, the sum of \$28,328.90 for that, the statement, “that no part of said debt has been paid” is untrue; that in part, the Craig Lumber Company, bankrupt, paid upon said contract, the sum of \$12,660.30, and there was not due on said contract, (if the same had been legal) to exceed the sum of \$19,527.30.

3. The claim of a lien upon logs and lumber belonging to the bankrupt estate made by the said MacDonald-Wiest Lumber Company, a corporation, to secure said claim is void, because (1) the said company is a foreign corporation, and had not at the time it was engaging in the business out of which said claim grew and at the time it attempted to fix its alleged lien by filing its claim of lien, complied with the laws of Alaska, so as to be legally authorized and empowered to do business in Alaska. (2) The claim of lien filed by the said MacDonald-Wiest Lumber Company is false and fraudulent in this: The said claim alleges that under its said contract with the

Craig Lumber Company, bankrupt, it had cut, felled and boomed 3,762,310 feet B. M. of logs, and had only been paid the sum of \$9,748.50, while in truth and in fact the said MacDonald-Wiest Lumber Company had under its said contract cut, felled and boomed not to exceed 3,218,760 feet B. M. and had been paid the sum of \$12,660.30. That no claim of lien for the amount due under said contract (if the same had been legal) was ever filed by the said MacDonald-Wiest Lumber Company.

4. The said MacDonald-Wiest Lumber Company, is a corporation, and during the year 1918, and prior thereto was engaged in the business of contracting on a large scale for the getting out and delivery of logs from the forests to lumber mills, which contracts it carried out and performed by the employment of large forces of laborers, but itself did no labor whatsoever, and is not "a person" to whom a lien is given on logs within the purview and meaning of the [9] statutes of Alaska (Compiled Laws, section No. 709), providing for liens upon logs.

5. The claimed lien upon 2,000,000 feet of lumber at the mill of the Craig Lumber Company, Bankrupt, is void, for the reasons aforesaid, and for the further reason, that said notice of lien fails to show that the MacDonald-Wiest Lumber Company performed any labor or rendered any service in the manufacture of said lumber, and in truth and in fact said company did not perform any labor or render and service in the manufacture of said lumber.

WHEREFORE the Trustee prays that the said claim of the MacDonald-Wiest Lumber Company be

disallowed and expunged, and for such other and orders as to the Court may seem proper.

J. H. COBB,
Attorney for the Trustee.

United States of America,
Territory of Alaska,—ss.

E. L. Cobb, being first duly sworn, on oath, deposes and says: I am the Trustee above named. The above and foregoing objections are true to the best of my knowledge and belief.

[Notarial Seal] E. L. COBB.

Subscribed and sworn to before me this the 2d day of August, 1919.

J. H. COBB,
Notary Public in and for Alaska.

My commission expires June 8, 1923.

Service of the above and foregoing objections of the Trustee admitted this the 2d day of August, 1919.

_____,
Attorney for the MacDonald-Wiest Lumber Company.

Filed August 2, 1920. H. B. Le Fevre, Referee in Bankruptcy, First Division of Alaska, Box 613, Juneau, Alaska.

Filed in the District Court, District of Alaska, First Division. Feb. 13, 1920. J. W. Bell, Clerk.
By _____, Deputy. [10]

*In the District Court of the United States for the
District of Alaska, Division Number One, at Ju-
neau.*

IN BANKRUPTCY—No. 31.

In the Matter of CRAIG LUMBER COMPANY, a
Corporation,

Bankrupt.

**Order Expunging Claim of MacDonald-Wiest
Logging Company.**

At Juneau, in said District, on the 8th day of No-
vember, A. D. 1919.

Upon the evidence submitted to the Court upon the
claim of the McDonald-Wiest Logging Company
against said estate, upon hearing counsel thereon, it
is ordered, that said claim be disallowed and ex-
punged from the list of claims upon the trustee's
record in said case.

H. B. LE FEVRE,

Referee in Bankruptcy, First Division of Alaska,
Box 613, Juneau, Alaska. [11]

*In the United States District Court for the Terri-
tory of Alaska, Division Number One, at Juneau.*

IN BANKRUPTCY—No. 31.

In the Matter of the CRAIG LUMBER COM-
PANY, a Corporation,

Bankrupt.

Notice of Appeal.

To the Honorable H. B. LE FEVRE, Referee in Bankruptcy:

PLEASE TAKE NOTICE that the MacDonald-Wiest Logging Company appeals to the Honorable Robert W. Jennings, Judge of the District Court for the Territory of Alaska, Division Number One, at Juneau, from the decision of the Referee made and filed November 8th, 1919, disallowing and expunging from the list of claims upon the Trustee's record in said cause, the claim of the MacDonald-Wiest Logging Company, and respectfully requests that the record appertaining to said matter and said order be transmitted to the Honorable District Court at Juneau, Alaska, for review as provided by law.

Dated at Juneau this 21st day of November, 1919.

JOHN RUSTGARD,

Attorney for MacDonald-Weist Logging Company.

Copy received this 1st day of Dec., 1919.

J. H. COBB,

Atty. for Trustee Receiver.

Filed December 2, 1919. H. B. Le Fevre, Referee in Bankruptcy, First Division of Alaska, Box 613, Juneau, Alaska. [12]

In the District Court of the United States for the Territory of Alaska, Division No. 1, at Juneau.

IN BANKRUPTCY—No. 31.

In the Matter of the CRAIG LUMBER COMPANY, a Corporation,

Bankrupt.

Certificate of Referee.

I, H. B. Le Fevere, the Referee of this court in bankruptcy, do hereby certify that in the course of the proceedings in said cause before me the following questions arose pertinent to the said proceedings:

That the above-named bankrupt, the Craig Lumber Company, is a corporation duly organized and existing as such under and pursuant to the laws of the State of Washington, and authorized to do business in the Territory of Alaska.

That claimant, the MacDonald-Weist Logging Company, is a corporation organized and existing under the laws of the State of Washington.

That on or about the 2d day of January, 1918, the said MacDonald-Wiest Logging Company, a corporation as aforesaid, entered into a contract with the said bankrupt to cut sawlogs for the said bankrupt in the Territory of Alaska. That pursuant to said agreement the said MacDonald-Wiest Logging Company cut 3,762,310 feet, board measure, of sawlogs for which the said bankrupt agreed, pursuant to said contract aforementioned, to pay the said MacDonald-Wiest Logging Company at the rate of ten dollars per thousand feet, board measure. That the

MacDonald-Wiest Logging Company continued cutting logs under said contract until the 20th day of December, 1918, at which time the said MacDonald-Wiest Logging Company claimed there was due it for the cutting of said logs under said contract, the sum of \$27,874.60.

That the said Craig Lumber Company was adjudged a bankrupt [13] by this court on the 19th day of March, 1919. That in due course of time the said MacDonald-Wiest Logging Company filed its claim against the estate of said bankrupt for the sum of \$27,874.60, and claimed a lien for said sum upon certain logs and lumber belonging to the estate of said bankrupt. That the contract for the cutting of said logs above mentioned was entered into in the Territory of Alaska and was to be performed within the First Division of the Territory of Alaska.

The Trustee moved this Court that the claim of the MacDonald-Wiest Logging Company against the estate of the above-named bankrupt be stricken from the records and disallowed upon the ground that the MacDonald-Wiest Logging Company had not complied with the statutes of Alaska authorizing it as a foreign corporation to carry on business in the Territory of Alaska. Upon the hearing of said motion the following facts touching the authority of the MacDonald-Wiest Logging Company to carry on business in Alaska were submitted, to wit:

On December 12th, 1917, the MacDonald-Wiest Logging Company filed in the office of the clerk of the District Court for the First Division, the following papers, to wit:

(a) A certified copy of its Articles of Incorporation.

(b) Its written consent to be sued and the appointment of L. J. MacDonald as its agent.

(c) A document attached to document "b" filled out in the handwriting of L. J. MacDonald and which was in form an acceptance of the appointment, but same was never subscribed by said L. J. MacDonald.

(d) Annual report filed February 11th, 1919, sworn to by the President but not attested by the directors.

The MacDonald-Wiest Logging Company filed in the office of the Secretary of the Territory of Alaska the following documents at dates mentioned, to wit:
[14]

(a) Copy of Articles of Incorporation, January 28th, 1919.

(b) Appointment of L. J. MacDonald as agent, and acceptance of appointment, filed January 28th, 1918.

(c) Annual statement filed February 16th, 1918.

(d) Annual statement filed February 27th, 1919.

The annual statement filed February 16th, 1918, was not verified by the President and Secretary of the MacDonald-Wiest Logging Company nor attested by the directors, and the annual statement filed February 27th, 1919, was not attested by a majority of the directors but was verified by the President and Secretary. No other papers or documents were ever filed by the MacDonald-Wiest Logging Company in either the office of the Secretary of the Territory or in the office of the clerk of the court for

the First Division, Territory of Alaska, but that the evidence shows that the MacDonald-Wiest Logging Company has paid the Territorial license tax for the years 1918 and 1919.

The questions of law have arisen under these facts as to whether or not the contract entered into between the MacDonald-Wiest Logging Company and the Craig Lumber Company is void and as such unenforceable in the courts of Alaska, and whether the MacDonald-Wiest Logging Company, not having complied with the laws of Alaska, as above stated, has any standing in a bankruptcy court.

This Referee has ruled on these questions; first, that by reason of the fact that the MacDonald-Wiest Logging Company has failed to comply with the laws of the Territory of Alaska authorizing a foreign corporation to do business therein, its contract for the cutting of logs above set out was absolutely void and could not be enforced in any of the courts of Alaska; and, second, that by reason [15] of its failure to properly qualify for doing business under the territorial laws of Alaska its said claim is not provable in bankruptcy and the said MacDonald-Wiest Logging Company has no standing in a bankruptcy court of the Territory of Alaska.

That said MacDonald-Wiest Logging Company has appealed to the Honorable District Court of this division from the said decision of this Referee and has asked for an adjudication of the questions by the Honorable District Court of the First Division of the Territory of Alaska sitting in bankruptcy, and

the said questions are certified to the Judge for his opinion thereon.

Dated at Juneau, Alaska, this 16th day of December, 1919.

H. B. LE FEVRE,
Referee in Bankruptcy.

O. K.—COBB.

JOHN RUSTGARD.

Filed in the District Court, District of Alaska, First Division. Dec. 16, 1919. J. W. Bell, Clerk. By _____, Deputy. [16]

In the District Court of the District of Alaska, Division Number One, at Juneau.

IN BANKRUPTCY—No. 31.

In the Matter of the CRAIG LUMBER COMPANY, a Corporation,

Bankrupt.

Opinion.

Oral opinion rendered reversing referee's action in disallowing and expunging from the list of claims upon the trustee's record in said cause, the claim of the MacDonald-Weist Logging Company.

(Done in open court February 2, 1920.)

(Entered Journal P, page 250, Feb. 2, 1920.)

ROBERT W. JENNINGS,

District Judge. [17]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

IN BANKRUPTCY—No. 31.

In the Matter of the CRAIG LUMBER COM-
PANY, a Corporation,

Bankrupt.

Order Reversing Decree of Referee.

This cause came duly on to be heard before the District Court for the Territory of Alaska, Honorable Robert W. Jennings presiding, at Juneau, Alaska, on the 16th day of December, 1919, upon an appeal by the MacDonald-Wiest Logging Company, a corporation, claimant, from an order and decree of H. B. Le Fevre, Referee in Bankruptcy, striking and expunging from the records in the above-entitled cause, the claim of the MacDonald-Wiest Logging Company, a corporation, upon the ground that the said MacDonald-Wiest Logging Company, a corporation, had not duly and properly qualified under the laws of Alaska to do business in the Territory of Alaska and that for that reason the contract between the MacDonald-Wiest Logging Company and the Craig Lumber Company, a corporation, bankrupt, and upon which the claim of the MacDonald-Wiest Logging Company, a corporation, is founded, was void and the claimant had no standing before any court in Alaska; John Rustgard, Esq., appearing for the MacDonald-Wiest Logging Company and John H. Cobb, Esq., appearing for E. L. Cobb, Trustee of Craig Lumber Company, a corporation, bank-

rupt; and the Court having heard the argument of counsel and duly considered the same,—

IT IS CONSIDERED AND ADJUDGED that the aforementioned order and decree of H. B. Le Fevre, as Referee in Bankruptcy, be, and the same is hereby reversed and the cause remanded for further [18] proceeding.

Done in open court at Juneau, Alaska, this 3d day of February, A. D. 1920.

ROBERT W. JENNINGS,
District Judge.

O. K.—COBB.

Entered Court Journal P, page 252.

Filed in the District Court, District of Alaska, First Division. Feb. 5, 1920. J. W. Bell, Clerk. By _____, Deputy. [19]

[Endorsed]: No. 3468. United States Circuit Court of Appeals for the Ninth Circuit. In the Matter of the Craig Lumber Company, a Corporation, Bankrupt. E. L. Cobb, Trustee of the Estate of Craig Lumber Company, a Corporation, Bankrupt, Petitioner; vs. MacDonald-Wiest Logging Company, a Corporation, Respondent. Petition for Revision Under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to Revise, in Matter of Law, a Certain Order of the United

States District Court for the Territory of Alaska,
Division No. 1.

Filed March 22, 1920.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

IN BANKRUPTCY—No. 31.

In the Matter of the CRAIG LUMBER CO., a Cor-
poration,

Bankrupt.

**Notice of Filing and Hearing of Petition for
Revision.**

NOTICE OF PETITION FOR REVISION OF
THE ORDER OF THE DISTRICT COURT
REVERSING THE ORDER OF THE REF-
EREE, EXPUNGING AND DISALLOW-
ING THE CLAIM OF THE McDONALD-
WIEST LOGGING CO., A CORPORATION.

To John Rustgard, Attorney for the McDonald-
Wiest Logging Co., a Corporation.

You will please take notice, that the undersigned
has filed in the United States Circuit Court of Ap-
peals for the Ninth Circuit, his petition for a revision
of that certain order of the District Court of Alaska,
Division Number One, dated February 3d, 1920, and

filed and entered February 5th, 1920, whereby the said District Court reversed the order of the Referee in Bankruptcy, expunging and disallowing the claim of the McDonald-Wiest Logging Co., a corporation, and remanding the matter for further proceedings.

You will also take notice that the undersigned will also call up for hearing the aforesaid petition at the regular May term of the United States Circuit Court of Appeals for the Ninth Circuit, to be held in the courtroom in the City of San Francisco, California, on the 3d day of May, 1920, at ten o'clock in the morning of said day, or as soon thereafter as counsel can be heard.

You will also take notice that the errors of the District Court upon which the undersigned will rely in his petition for revision, and review of the said order of the District Court, which petition was heretofore filed in the said Circuit Court of Appeals is the error of holding and ruling that the Trustee in Bankruptcy was not competent to object to the claim of the McDonald-Wiest Lumber Co. on the ground that it was a foreign corporation doing business in Alaska, without first complying with the laws of Alaska, but such objection could only be made by the Craig Lumber Co., Bankrupt; and that the Craig Lumber Co. having failed to interpose such objection, the claim of the McDonald-Wiest Lumber Co. was provable in bankruptcy, notwithstanding such claim grew out of a contract and business made and performed in Alaska by the McDonald-Wiest Lumber Co., a foreign corporation, without it having complied with the laws of Alaska, governing foreign

corporation, doing business in the territory, and reversing the order of the Referee in Bankruptcy expunging and disallowing said claim.

And as necessary for the consideration of said petition, the undersigned has designated the following portions of the record to be attached to said petition and printed:

- 1st. Claim of the McDonald-Weist Lumber Co.
- 2d. Objections by trustee to the claim of the McDonald-Weist Lumber Co.
- 3d. Order of the referee expunging claim of the McDonald-Weist Lumber Co.
- 4th. Notice of appeal of the McDonald-Weist Lumber Co.
- 5th. Certificate of the referee.
- 6th. Minute order reversing referee.
- 7th. Order reversing referee.

J. H. COBB,

Solicitor for E. L. Cobb, Trustee in Bankruptcy of the Craig Lumber Co., Bankrupt.

Copy of above notice together with what purports to be a copy of the petition for review received this 31st day of March, 1920.

JOHN RUSTGARD,

Attorney for the McDonald-Weist Lumber Co.

[Endorsed]: No. 3468. United States Circuit Court of Appeals for the Ninth Circuit. In the Matter of the Craig Lumber Company, a Corporation, Bankrupt. E. L. Cobb, Trustee of the Estate of Craig Lumber Company, a Corporation, Bankrupt, Petitioner, vs. MacDonald-Wiest Logging Company, a Corporation, Respondent. Notice of Filing and Hearing of Petition for Revision. Filed Apr. 12, 1920. F. D. Monckton, Clerk.

